

Use of Force by Peace Officers 2003

2 Hours - Telecourse DVD February 2004



POST Course Control Number: xxxx-30001-xx013*

Telecourse Module Number: 04-02 Reference Guide NA

* Specific to DVD only. The first four digits of the Course Control Number (xxxx) is the preassigned Telecourse Presenter Number specific to your agency; the tenth and eleventh digits (xx) are the fiscal year in which your agency presents this program. See website for detailed instructions.

This program is designed to reinforce the law and case decisions related to peace officers' use of force, and provide practice and train in cognitive areas in the use of force. Includes discussion of what "force" and "force options" means, how "reasonable force" is defined, how a peace officers' use of force is regulated and reviewed from a legal perspective, what role "reasonable fear" plays in use of force, and the role of agency policy in use of force situations. Key discussion points include:

- · Law and the Use of Force: What does the law allow/expect?
- The Psychological/Emotional Impact of Force Situations: What roles do fear, anger, emotions and mindset play in use of force situations?
- Media and Public Scrutiny of Use of Force: How should peace officers expect to be viewed and scrutinized as a result of use of force decisions?
- Agency Control: Who is in charge of a force situation, and how can tactical communications impact force decisions?
- Policy Application: What are the essential elements of understanding your department's policy?
- Behavior and Force Decisions: What are the realities of force decisions?
- Articulation and Investigation After a Force Incident: What explanations and rationales will be required following a force incident?

The DVD program offers several viewing options:

- 1. Play telecourse in its entirety (2 hours)
- 2. Select among nine telecourse segments:
- Introduction (3 min.)
- Chopping the car (11 min.)
- · How is reasonable force defined? (20 min.)
- 211 in progress (12 min.)
- Force option simulation (11 min.)
- Man in the park (21 min.)
- Roll-call training (5 min.)
- Shooting the car (14 min.)
- Spit out the dope (13 min.)

Select among six telecourse scenarios/interaction segments:

- · Chopping the car
- Bag lady
- 211 in progress
- · Man in the park
- · Shooting the car
- Spit out the dope





53 Minutes - Quarterly Edition DVD October 2003



Case Law Today programs are released quarterly on a single DVD containing up to three months (18 total segments). Case Law Today programs are not accompanied by reference guides nor eligible for Continuing Professional Training (CPT) credit.

Aids Testing: Is Sweat a Bodily Fluid?

with Daniel McNerney, Superior Court Judge, State of California
A court may only order AIDS testing pursuant to statutory authority. Such testing is generally authorized where the victim is exposed to a defendant's "bodily fluids," including defendant's sweat. Cases/Statutes cited: People v. Hall (2002) 101 CA4 1009. (7:51)

Taking Joint Statements When Suspects Give Same Story

with Jeff Rubin, Alameda County District Attorney's Office
When suspects give statements incriminating each other, it normally results in
the prosecution having to try the suspects separately if the prosecutions wants
to use the statements. A new case explains how to take a joint statement from
suspects who give the same story in a way allowing the use of the statements
in a joint trial. Cases/Statutes cited: People v. Castille (2003) 108 CA4 469.
(14:14)

Single Suspect Lineups

with William Bedsworth, Justice of the Court of Appeal, State of California Single-suspect show-ups, also called "cold shows" and "in-field show-ups," have some fairly basic rules, but there is very little room for stretching those rules. Justice Bedsworth sets out the basics for this very important law enforcement tool and explains the exceptions. Cases/Statutes cited: In re Carlos M. (1990) CA3 372; People v. Courtney (1970) 11 CA3 1185. (7:56)

Warrants Based on Drug Sale at Business

with Jeff Rubin, Alameda County District Attorney's Office
Sale of illegal drugs by an owner or employee of a business open to the public
will provide probable cause to believe drugs are stored at the business.
However, in order to have probable cause to get a warrant based on the sale
by a patron of the business, there must be evidence showing the patron
actually stored his/her drugs at the business. Cases/Statutes cited: People v.
Garcia (2003) 3 Cal.Rptr. 3d 895. (5:29)

Search Warrants: Specificity

with Daniel McNerney, Superior Court Judge, State of California
A search warrant must describe with "specificity" the items to be searched for and seized. The language in the warrant must provide officers "objective standards" to determine which items are subject to seizure. Cases/Statutes cited: U.S. v. Kow (1995) 58 F3d 423; U.S. v. Wong (2003) DAR 7062. (6:40)

What Constitutes a Stale Warrant?

with Jeff Rubin, Alameda County District Attorney's Office
Discusses the factors that go into deciding whether a warrant will be deemed
too stale to establish probable cause to believe drugs will presently be found at
a location. Cases/Statutes cited: People v. Hulland (2003) 110 CA4 1646.
(10:37)





48 Minutes - Quarterly Edition DVD November 2003



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Excessive Force

with William Bedsworth, Justice of the Court of Appeal, State of California While this is a case involving whether use of a police dog constituted excessive force in executing an arrest, Justice Bedsworth explains that the same test of what is reasonable force and what is excessive force applies to all arrests—whether or not a K-9 is involved. This three-step analysis should help every officer assess the amount of force allowable in effecting an arrest. Cases/Statutes cited: Miller v. Clark County (2003) DJDAR 9508. (8:41)

Warrants for Trafficker's Person and Car

with Jeff Rubin, Alameda County District Attorney's Office
Credible information that a suspect possessed drugs for sale-- coupled with an
officer's expert opinion that drugs will be found on the person or vehicle of a
trafficker-- is enough to get a warrant for the person or vehicle even though
drugs were never actually seen on the person or in the vehicle. Discusses what
information should be included about an informant's credibility in a warrant.
Cases/Statutes cited: <u>U.S. v. Elliott</u> (9th Cir. 2003) 322 F.3d 710; <u>U.S. v.</u>
Spearman (9th Cir. 1976) 532 F.2d 132. (8:15)

Vehicle Stops: Reasonable Suspicion Based on Corroborated Tip with Daniel McNerney, Superior Court Judge, State of California
Whether an officer needs to corroborate a "tip" in order to establish reasonable suspicion for a detention will depend on whether the source of the tip is known to be reliable. Cases/Statutes cited: U.S. v. Fernandez-Castillo (2003) DJDAR 3855. (8:41)

Anonymous Tip Detentions

with Jeff Rubin, Alameda County District Attorney's Office
An anonymous tip that drugs are being sold from a specific car in a specific location permits a detention if an officer familiar with narcotics transactions sees the car described, in the location described, and sees the driver exchanging something with a person standing next to the car. Cases/Statutes cited: People v. Butler (2003) 111 CA4 150; Flordia v. J.L. (2000) 529 U.S. 266. (5:17)

We've Searched the House: Now What?

with William Bedsworth, Justice of the Court of Appeal, State of California Problem: we've searched the house pursuant to the warrant, but we think we missed something. What do we do? Justice Bedsworth reviews the case of <u>Dixon</u> where police were confronted with just that problem, and he discusses the ground rules. Cases/Statutes cited: <u>Dixon v. Wallowa County (OR)</u> (2003) DJDAR 8062. (5:24)

Search of Students by School-Assigned Officers

with Jeff Rubin, Alameda County District Attorney's Office
A search of a student on school grounds can be justified on less than probable cause where the person conducting the search is a peace officer assigned to the school as a resource officer. Cases/Statutes cited: In re William V. (2003) 4 Cal. Rptr. 3d 695; New Jersey v. T.L.O. (1985) 469 U.S. 325. (11:47)





48 Minutes - Quarterly Edition DVD December 2003



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Search and Seizure: Hiding in Plain Sight

with Daniel McNerney, Superior Court Judge, State of California
Persons who engage in criminal activity in commercial areas open to the public cannot claim a "reasonable expectation of privacy." Cases/Statutes cited:

Minnesota v. Carter (1988) 525 U.S. 83; U.S. v. Gonzalez (2003) DJDAR 4881. (6:44)

Forcible Removal of Suspect from Car

with Jeff Rubin, Alameda County District Attorney's Office
This case found that an officer acted reasonably in forcibly removing a
robbery suspect from his crashed car after a high-speed chase where the
suspect complained of pain during removal (ultimately resulting in paraplegia)
but where the cause of pain did not appear to be the officer's acts, the suspect
did not show typical signs of serious pain, and the suspect may have been
trying to avoid the deputy to get a weapon or attempt to flee. Cases/Statutes
cited: Johnson v. CO of Los Angeles (2003) 9th Cir. 340 F.3d 787. (12:07)

Search of Fire-Damaged Areas

with William Bedsworth, Justice of the Court of Appeal, State of California Recent catastrophic fires in Southern California have raised questions about the effect of a fire on a homeowner's reasonable expectation of privacy. Justice Bedsworth provides a primer on the basic rules applying to search of fire-damaged premises. Cases/Statutes cited: Michigan v. Tyler (1978) 436 US 499; People v. Glance (1989) 209 CA3 836; Michigan v. Clifford (1984) 464 US 287. (9:28)

Shoeprint Comparison Testimony

with Jeff Rubin, Alameda County District Attorney's Office
It is not necessary for an officer to be qualified as an expert in order to be
able to testify in court regarding his/her observations about similarities
between shoeprints found at a crime scene and shoes found in the suspect's
possession. Cases/Statutes cited: People v. Maglaya (2003) WL 22480461.
(3:57)

More on the "Good Faith Exception" Rule

with Daniel McNerney, Superior Court Judge, State of California
Courts continue to refine the "Good Faith exception" to the warrant
requirement. If the erroneous information comes from a "law enforcement
source," the exception does not apply. But, if the erroneous information comes
from an "administrative source," officers may rely on it in good faith. Cases/
Statutes cited: U.S. v. Leon (1984) US 897; Arizona v. Evans (1995) 514 US 1;
Illinois v. Krull (1989) 480 US 340; People v. Willis (2002) 28 C4 22; In re
Aaron C. (1997) 59 CA4 1365; People v. Ferguson (2003) DAR 5854; People
v. Hamilton (2002) 102 CA4 1311. (7:51)

Searches Incident to Arrest of Vehicle Occupants

with Jeff Rubin, Alameda County District Attorney's Office
Discusses current law on searches of vehicle incident to the arrest of a suspect
who is closely associated with a vehicle but was not physically inside the vehicle
when officers arrived on the scene nor at the time of the arrest. Cases/Statutes
cited: New York v. Belton (1981) 453 US 454; People v. Boissard (1992) 5
CA4 972; People v. Stoffle (1991) 1 CA4 1671; State v. Dean (2003) 76 P.3d
429. (7:44)



Additional Information

Copyright Notice

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Beginning July 2003, new CPTN video programs are distributed on DVD format only. Single copies of DVDs are automatically direct-mailed to all POST-Certified Telecourse Presenters and Basic Academies in the California POST Program. DVD programs cannot be duplicated. Multiple copies of CPTN materials are available via automated direct-mail to eligible agencies with multiple training sites. See POST Bulletins #03-03 and #03-13 at www.post.ca.gov/bulletin/bulletins.asp for more information about DVD distribution and eligibility.

All requests for copies of CPTN materials and CPTN subscriptions must be made by calling CPTN at 800.441.POST (7678)

Visit the CPTN website at **www.post.ca.gov/training/cptn** for complete CPTN information. Other questions not answered online may be directed to the POST Training Program Services Bureau at 916. 227.3913, or send email to **cptn@post.ca.gov**.

Telecourse CPT Credit

This month's Telecourse and most previous Telecourses are eligible for continuing professional training (CPT) credit if facilitated by a POST-Certified Telecourse Presenter. Certified Presenters of POST Advanced Officer Courses or Skills and Knowledge Modular training courses may also use the Telecourses as part of those courses. POST-Certified Telecourse Presenters seeking CPT credit for trainees must document Telecourse attendance on POST Course Roster (Form 2-111). Note that course control numbers are different for Telecourses on DVD. For detailed instructions on completion of the Telecourse Course Roster, visit www.post.ca.gov/training/cptn/credit.asp. Law enforcement agencies and POST- Certified Telecourse Presenters are authorized to duplicate CPTN VHS or print materials for training purposes. Call the POST Training Delivery Bureau at 916.227.4863 for more information about Telecourse CPT credit.

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Frequently Asked Questions

Does CPTN Still Do Weekly Satellite Broadcasts?

The satellite broadcast service transitioned to a DVD-based delivery system in July 2003. All new **Telecourse** and **Case Law Today** video programs are distributed on DVD via direct-mail to law enforcement agencies and Basic Academies in the California POST Program who are registered with POST as Certified Telecourse Presenters (see below). The monthly Telecourse series is designed to assist law enforcement training managers and instructors in meeting specific training needs or legislative mandates for their agency. Produced exclusively by California POST, instructional Telecourses may be used by agencies in the California POST program to satisfy Continuing Professional Training (CPT) requirements. As part of the conditions for Telecourse use, the Telecourses must be facilitated at the local agency by an instructor or supervisor. The Case Law Today program is not eligible for CPT credit.

Is My Agency on the DVD Mailing List?

To determine if your agency is listed as a Certified Telecourse Presenter or POST Basic Academy and on the DVD distribution list— or to obtain more information about Telecourse certification— visit POST online at www.post.ca.gov/training/cptn/credit.asp. If your agency is not listed and you wish to register as a Certified Telecourse Presenter with POST, follow the website instructions or contact the Training Delivery Bureau at 916.227.4863. A single copy of each newly released DVD program is automatically direct-mailed to eligible POST agencies monthly (Telecourses) or quarterly (Case Law Today). For eligible agencies with multiple training sites, the agency Training Manager may request multiple DVD copies by contacting POST at 916.227.3913. See POST Bulletins #03-03 and #03-13 online at www.post.ca.gov/bulletin/bulletins.asp for additional information about the DVD transition and agency eligibility.

Which Programs Are On VHS and DVD?

All new Telecourse video programs produced July 2003 and beyond are released only on DVD format. Telecourses broadcast on the network prior to July 2003 may still be ordered on VHS format only (NOTE: some prior Telecourses are scheduled for re-release on DVD format later in 2003-2004; check the CPTN website for upcoming releases). Case Law Today programs will be released on a quarterly basis (three months/18 segments per DVD). Case Law Today is available on DVD beginning with January 2003 episodes; programs prior to 2003 may still be ordered on a monthly VHS format only.

Is the CPTN Program Guide Available by Mail?

The monthly CPTN Program Guide is now available exclusively online at the POST website at www.post.ca.gov/training/cptn/program_guide.asp. The Program Guide provides updated program information not only for the current month DVD releases, but also future CPTN program releases and other CPTN information. The CPTN Program Guide is no longer printed nor mass-mailed.



Future CPTN Programs

2004 Legal Update

March 2004 - Telecourse DVD

The Qualities of a Good FTO

April 2004 - Telecourse DVD

Case Law Today (Jan-Feb-Mar 2004)

April 2004 - Quarterly Edition DVD

Traffic Stops 2003

May 2004 - Telecourse DVD

Kids in Peril:

Protecting Children Online 2004

June 2004 - Telecourse DVD